

Subchapter IV. Registration of Lobbyists

(Effective January 15, 1996)

§5831. Definitions (Effective January 15, 1996.)

(a) As used in this subchapter, the following terms shall have the meanings indicated:

(1) “Lobbyist” means any individual who acts to promote, advocate, influence or oppose any matter pending before the General Assembly by direct communication with the General Assembly or any matter pending before a state agency by direct communication with that state agency, and who in connection therewith either:

- a. Has received or is to receive compensation in whole or in part from any person; or
- b. Is authorized to act as a representative of any person who has as a substantial purpose the influencing of legislative or administrative action; or
- c. Expends any funds during the calendar year for the type of expenditures listed in §5835(b) of this title.

(2) “Compensation” means any money, thing of value or any other economic benefit of any kind or nature whatsoever conferred on or received by any person in return for services rendered or to be rendered by himself or another.

(3) “Employer” means any person on whose behalf a lobbyist acts.

(4) “Person” means any individual, partnership, corporation, trust, joint venture and any other association of individuals or entities.

(5) “General Assembly” includes any member, committee or subcommittee of either House of the General Assembly.

(6) “State agency” means any office, department, board, commission, committee, school district, board of education and all public bodies existing by virtue of an act of the General Assembly or of the Constitution of the State, excepting only political subdivisions of the State, their agencies and other public agencies not specifically included in this definition that exist by virtue of state law and whose jurisdiction:

- a. Is limited to a political subdivision of the State or to a portion thereof; or
- b. Extends beyond the boundaries of the State.

(7) “Matter” means any application, petition, request, business dealing, transaction or decision of any sort.

(8) “Commission” means the State Public Integrity Commission.

(9) “State employee” means person who receives compensation as an employee of a state

agency (including the elected or appointed heads of such agencies) or who serves as an appointed member, trustee, director or the like of any state agency.

(b) Subparagraphs a. and b. of subsection (a)(1) of this section shall not apply to:

(1) Persons performing professional services in drafting bills or regulations or in advising and rendering opinions to clients as to the construction or effect of proposed, pending or enacted legislation or regulations who do not otherwise act as lobbyists;

(2) Persons appearing pursuant to their official duties as employees or elected officials of the State, or any political subdivision thereof, or of the United States, and not as representatives of any other person; moreover, expenditures listed in §5835 of this title made by such persons or their employers in connection with these official duties shall not qualify such persons as lobbyists under subsection (a)(1)c. of this section;

(3) Persons who, in relation to the duties or interests of their employment or at the request or suggestion of their employer, communicate with the General Assembly or a state agency concerning any legislation, regulation or other matter before the General Assembly or such state agency, if such communication is an isolated, exceptional or infrequent activity in relation to the usual duties of their employment;

(4) Persons communicating with the General Assembly or a state agency if such communication is undertaken by them as a personal expression and not as an agent of their employers as to matters of interest to a person by whom or by which they are employed and if they receive no additional compensation or reward, in money or otherwise, for or as a result of such communication;

(5) Persons testifying at public hearings conducted by the General Assembly or a state agency who do not otherwise act as lobbyists;

(6) Persons appearing on behalf of any religious organization with respect to subjects of legislation or regulation that directly relate to the religious beliefs and practices of that organization who do not otherwise act as lobbyists;

(7) Attorneys representing clients in administrative adjudications governed by the provisions of subchapter III of Chapter 101 of this title, representing clients before the Tax Appeals Board, or in other administrative procedures where ex parte communications with the state agency with authority over the matter are prohibited;

(8) Attorneys representing clients with regard to criminal or civil law enforcement proceedings, or in any judicial proceedings. (69 Del. Laws, c. 467, §28.)

§5832. Registration of lobbyists with the State Public Integrity Commission (Effective January

15, 1996.)

(a) Every lobbyist shall register with the Commission in a lobbyist docket and file, at that time, the authorization from his employer as required by §5833 of this title. A person who qualifies as a lobbyist in accordance with §5831(a)(1)a. or b. of this shall register prior to performing any acts as a lobbyist. A person who qualifies as a lobbyist in accordance with §5931(a)(1)c. of this title must register within 5 days after so qualifying, if not already registered as a lobbyist.

(b) The information recorded in the Commission's lobbyist docket shall include for each separate employer:

- (1) The name, residence or business address and occupation of each lobbyist;
- (2) The name and business address of the employer of such lobbyist;
- (3) The date on which the employment as lobbyist commenced;
- (4) The length of time the employment is to continue; and
- (5) The subject matter of legislation, regulation or administrative action as to which the employment relates at that time.

(c) Upon any change in the information recorded in the lobbyist docket, the lobbyist shall within 10 business days report such changes to the Commission, which shall record the change in the docket.

(d) The Commission shall promptly furnish copies of each entry in the lobbyist docket to the Chief Clerk of the House of Representatives, the Secretary of the Senate, the Governor and the head of any state agency upon request of such persons. (69 Del. Laws, c. 467, §28.)

§5833. Employer's authorization to act (Effective January 15, 1996)

Every employer of a lobbyist shall furnish to such lobbyist a written and signed authorization to act, which shall be filed with the Commission by the lobbyist at the time of registration or as soon as available and not later than 15 business days after the lobbyist has registered with the Commission. If the employer is a corporation, association or labor union, any authorized officer or agent who is not the lobbyist shall furnish and sign the written authorization. The authorization shall include the full and legal name and business address of both the employer and the lobbyist, the period of time during which the lobbyist is authorized to act and the subject or subjects of legislation, regulation or administrative action upon which the employer is represented. (69 Del. Laws, c. 467, §28.)

§5834. Compensation of lobbyist not to be substantially dependent on outcome of legislative or administrative action (Effective January 15, 1996.)

No person shall employ a lobbyist nor shall any person be employed as a lobbyist pursuant to any compensation agreement that permits more than half of the compensation to be paid to such a lobbyist to be dependent upon the outcome of any legislative or administrative action. (69 Del. Laws, c. 467, §28.)

§5835. Reports by lobbyists (Effective January 15, 1996.)

(a) On or before the 20th day of the month following each calendar quarter, each lobbyist shall file a written report covering the immediately preceding calendar quarter and containing the information required by this subchapter.

(b) A lobbyist shall file separate reports for each employer which he or she represents. Each report shall contain the total expenditures during the reporting period for all direct expenditures, costs or values, whichever is greater, provided for members of the General Assembly or for employees or members of any state agency for the following:

- (1) Food and refreshment;
- (2) Entertainment, including the cost of maintaining a hospitality room;
- (3) Lodging expenses away from home;
- (4) Fair value of travel if the trip exceeds 100 miles;
- (5) Recreation expenses; and
- (6) Gifts or contributions, excluding political contributions as defined in Chapter 80 of Title 15 provided to members of the General Assembly.

(c) The information shall be reported on a form which shall be available from the Commission and shall show the total expenditures for the reporting period and shall also list the recipient any time the expenditures exceed \$50 per diem. The lobbyist shall also affirm that he or she has provided the recipient of any gift in excess of \$50 with a representation as to the value of the gift. The records shall be retained for a period of 4 years from the date of filing. (69 Del. Laws, c. 467, §28.)

§5836. When registration, report or authorization is considered as filed; access to records (Effective January 15, 1996.)

(a) Any registration, report or authorization form shall be considered filed as of the date it is physically filed with the Commission or is mailed if sent by registered or certified mail.

(b) The lobbyist docket maintained by the Commission and any reports, authorizations or other documents filed with the Commission pursuant to this subchapter shall be made available at reasonable hours for public inspection and copying pursuant to Chapter 100 of this title. (69 Del. Laws, c. 467, §28.)

§5837. Violation and penalties (Effective January 15, 1996.)

(a) Any person who knowingly fails to register as a lobbyist as required by this subchapter shall be guilty of a misdemeanor.

(b) Any person who knowingly furnishes false information in any registration, authorization or report required by this subchapter shall be guilty of a misdemeanor.

(c) Any person who fails to file an authorization or report as required by this subchapter shall be deemed to have voluntarily cancelled his or her registration as a lobbyist and shall be prohibited from reregistering or acting as a lobbyist until all delinquent authorizations and/or reports have been filed.

(d) The Commission may refer to the Commission Counsel for investigation and/or refer any suspected violation of this subchapter to the Attorney General for investigation and prosecution. The Speaker of the House, the presiding officer of the Senate, the Legislative Council or any member of the General Assembly shall refer, or any other person may refer, any suspected violation of this subchapter to the Commission and/or the Attorney General of the State.

(e) The Superior Court shall have exclusive jurisdiction over all offenses under this subchapter. (69 Del. Laws, c. 467, §28.)